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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,939

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Hideki Matsui

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER

HWANG, VICTOR KENNY

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,939

Applicant(s)

MATSUI, HIDEKI

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/2/07 & 12/12/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 8-10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of Group II (claims 11-19) in the reply filed on March 2, 2007 is acknowledged. The traversal is on the ground(s) that this application is a US national stage of a PCT application and that Group I and Group II satisfy the combination of categories provided under 37 CFR 1.475(b) and satisfy unity of invention under 37 CFR 1.475(b). This is found persuasive and the requirement is withdrawn. Claims 8-19 have been fully considered.

Response to Arguments

2. Applicant's arguments with respect to claims 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Information Disclosure Statement

3. The information disclosure statement filed July 12, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. No copies of the listed foreign patent documents were provided.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 10, the stretch tape is recited as having a width and length of between 15 and 50mm with end of the tape being roundish in shape and appears to describe the fourth embodiment as disclosed in the specification on page 10, lines 8-11. Claim 10 depends from claims 8 or 9, with claim 8 reciting limitations that describe the second embodiment shown in Figs. 3 and 4 and disclosed on pages 8 and 9 of the specification. There is no support for an embodiment of the stretch tape having the limitations of claim 8 and claim 10 together. Any such combination would be considered new matter.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 19 recites limitations describing the stretch tape with a base length of the triangle between 35 and 50 mm and a vertex angle of the triangle between 0 and 120 degrees. Claim 19 depends from claim 18 which describes the third embodiment of the stretch tape shown in Figs. 5 and 6 and disclosed on page 9 of the specification. The third embodiment is described as having a base length between 30 and 50mm and a vertex angle between 30 and 120 degrees, which does not support claim 19 as recited. The limitations of claim 19, if retained would be considered new matter.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 10 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As discussed above in the objection to the specification, there is no support in the specification as originally filed for an embodiment of the stretch tape having the limitations of claim 8 and claim 10 together; or a third embodiment having a base length between 35 and 50mm and vertex angle between 0 and 120 degrees (claim 19).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8-10, 12 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Berke* (US Pat. 5,976,173) in view of *Krantz* (US Pat. 5,336,219). *Berke* discloses a stretch tape 10 comprising a stretchable base material 10a; and an adhesive material 22 applied on the base material. The base material comprises a thin flexible elastic material that can be cloth or

plastic of the type used to make adhesive strip bandages and the adhesive used will stick and hold the skin of the human nose, but not cause pain when removed. The stretch tape has a U or V shape (Fig. 10 for example) in a plane sheet with a stride angle between feet of the U shape or V shape between 0 and 120 degrees. The other embodiments of the stretch tape shown in Figs. 4 and 11 can also be considered to have a U or V shape. The stretch tape embodiments shown appear to have width and length between 5 and 20 mm and between 15 and 50 mm with foot lengths between 15 and 35 mm, and one embodiment with at least one roundish shaped end (see Fig. 4). The shape of the stretch tape can also be considered to be nearly triangular with the center of the triangle stuck to upper portions of wings of the nose, the width being between 5 and 40 mm and the base length being 35 to 50 mm and a vertex angle between 0 and 120 degrees. Furthermore, a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

The stretch tape can be used to change the shape of a person's nose, wherein the nose portion of the user's face is stretched by placing the bottom portion of the U-shape or V-shape is stuck to the nose between the eyes and both foot portions are stuck at both hillside portions of the nose so that the stretch tape stretches the hillside portion of the nose toward the head of the user.

Berke does not disclose the adhesive material applied on the base material at 35 grams per square meter or more (claim 8); the base material comprising urethane non-woven fabric; and the adhesive material comprising an acrylic adhesive material (claim 9).

Krantz discloses a stretch tape constructed of a base material comprising nonwoven fabric material laminated with a polyurethane material (col. 3, line 59 to col. 4, line 20). An acrylic adhesive is applied to the base material to stick the tape to the skin of a user. The

adhesive can be applied in an amount of 42 grams per meter squared (col. 4, line 49) or 50 grams per meter squared (col. 4, line 43). The nonwoven fabric provides the bandage with a means to distribute tension in the applied bandage and the polyurethane material provides stiffness to attenuate the properties of the fabric. The polyurethane gives support to the fabric and prevents the fabric from being stretched excessively, while the fabric layer contributes pliancy to the polyurethane, enabling the bandage to move with the skin, even when the skin wrinkles or folds during movement (col. 4, lines 21-31). Acrylic adhesive is a common adhesive used in adhesive strip bandages.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape of *Berke* with acrylic adhesive and a base material of nonwoven fabric and polyurethane since *Krantz* teaches that such a base material and adhesive provides support and pliancy to enable a bandage to move with the skin.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Dunshee* (US Pat. 7,066,182 B1) in view of *Rangel et al.* (US Pat. App. Pub. No. 2004/0082897 A1). *Dunshee* discloses a stretch tape comprising a stretchable base and an adhesive material applied on the base at 35 grams per square meters or more. The stretch tape 10 has a stretchable base 12 made of nonwoven elastomeric webs, the elastomeric webs based on melt blown webs of thermoplastic elastomeric small diameter fibers such as those made of elastomeric polyurethane. The adhesive material is a pressure sensitive adhesive such as those made from acrylate copolymers and may be applied in a layer of about 25 grams per square meter. The tape is applied wherever necessary to close a wound, including near an outer corner of either eye to stretch the outer corners of the

eyes toward the outside (Figs. 5 and 6). The shape of the tape has rounded ends, but may have alternative shapes and sizes.

Dunshee does not disclose the adhesive material applied at 35 grams per square meter or more.

Rangel et al. discloses an adhesive backed bandage comprising a stretchable base material of elastic polymer and an acrylic based adhesive material applied to the base material. The amount of adhesive typically applied is well known in the art and generally varies from about 20 grams per square meter to about 100 grams per square meter [0028].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adhesive material of *Dunshee* at 35 grams per square meter or more to the stretchable base material, since *Rangel et al.* teaches that it is known in the art to apply adhesive within the range of about 20 to 100 grams per square meter.

11. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Dunshee* (US Pat. 7,066,182 B1) in view of *Rangel et al.* (US Pat. App. Pub. No. 2004/0082897 A1) as applied to claim 13 above, and further in view of *Dunshee et al.* (US Pat. D471,984 S). *Dunshee* in view of *Rangel et al.* discloses the invention as claimed except for the shape of the stretch tape being tapered so that the stretch tape points the inner corners or the outer corners of the eyes (claim 14); and the width of the tape is between 5 and 15 mm, the length of the tape is between 15 and 30 mm and the angle of the taper is between 20 and 60 degrees.

Dunshee et al. discloses an alternative shape for a bandage and comprises a tape having a width, length and tapered ends. The taper appears to be an angle within the range of 20 and 60

degrees. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape of *Dunshee* in view of *Rangel et al.* with tapered ends and a size such that the length is between 15 and 30 mm, since *Dunshee et al.* disclose a bandage tape having a shape with tapered ends is known in the art and a change in the shape of a prior art device is a design consideration within the skill of the art and a mere change in the size of a component is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

12. Claim 11 is allowed.

13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a method of beautification and facelifting using stretch tapes wherein the moisturizing and astringing pack is applied to the whole face, the tape stuck onto the face, and the pack not washed off until the next day. In particular, the prior art does not disclose sticking the tape onto the face portion while pulling, stretching and fixing the wrinkles of the skin while the face portion still has the moisturizing and astringing pack applied to the whole face.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cornish (US Pat. 1,215,117), *Dillon* (US Pat. 2,540,247), *Ohira et al.* (US Pat. 4,734,320), *Almond* (US Pat. D355,489), *Glover* (US Pat. 5,466,456), *Nash-Morgan* (US Pat. 5,582,585), *Kalt* (US Pat. 5,755,232), *Kase* (US Pat. 5,861,348), *Koo* (US Pat. 6,572,634 B2), *Kim* (US Pat. App. Pub. No. 2003/0208230 A1), *Siegwart et al.* (US Pat. App. Pub. No. 2004/0002676 A1), *Lish* (US Pat. App. Pub. No. 2004/0138699 A1) and *Beaudry* (US Pat. 7,186,878 B2) disclose methods and devices relevant to the invention as claimed.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor K. Hwang
September 19, 2007

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

